

DEREK G. MORRIS)
Claimant)
VS.)
KANSAS DEPARTMENT OF TRANSPORTATION)
Respondent)
AND)
STATE SELF-INSURANCE FUND)
Insurance Carrier)

KANSAS DEPARTMENT OF TRANSPORTATION)
Respondent)
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STATE SELF-INSURANCE FUND)
Insurance Carrier)

Respondent appeals the January 24, 2002 Decision of Administrative Law Judge Pamela J. Fuller. Claimant was awarded a 78 percent permanent partial general body disability for injuries suffered on May 27, 1999. Respondent contends claimant failed to prove accidental injury arising out of and in the course of his employment, having testified to different onsets of pain with different sensations experienced at the time of the alleged injury. Respondent further alleges that claimant failed to timely notify respondent of the alleged injury. Claimant's notice to respondent did not occur until after he returned from vacation in Wyoming and spent nearly a week at home. The Appeals Board (Board) held oral argument on July 12, 2002.

Claimant appeared by his attorney, Brian D. Pistotnik of Wichita, Kansas. Respondent and its insurance carrier appeared by their attorney, Richard L. Friedeman of Great Bend, Kansas.

The Board has considered the record and adopts the stipulations contained in the Decision of the Administrative Law Judge.

ISSUES

- (1) What is the percentage of permanent partial disability to the claimant?
- (2) Did claimant meet with personal injury by accident arising out of and in the course of his employment on May 27, 1999?
- (3) Did claimant provide notice?
- (4) What is the nature and extent of claimant's disability?
- (5) All other issues.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary file contained herein, the Board finds the Decision of the Administrative Law Judge should be affirmed.

The Decision sets out findings of fact and conclusions of law in some detail, and it is not necessary to repeat those herein. The Board adopts those findings and conclusions as its own as if specifically set forth herein.

The Board finds that claimant has proven that he suffered accidental injury arising out of and in the course of his employment on the date alleged. Additionally, claimant provided timely notice of accident on June 7, 1999, which was the first Monday claimant returned to work after his vacation.

Therefore, the Board finds that the Decision of the Administrative Law Judge granting claimant a 78 percent permanent partial general body disability for the injuries suffered on May 27, 1999, should be affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Decision of Administrative Law Judge Pamela J. Fuller dated January 24, 2002, should be, and is hereby, affirmed, and claimant is awarded a 78 percent permanent partial general body disability for the injuries suffered on May 27, 1999.

IT IS SO ORDERED.

Dated this ____ day of July 2002.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Brian D. Pistotnik, Attorney for Claimant
 Richard L. Friedeman, Attorney for Respondent
 Pamela J. Fuller, Administrative Law Judge
 Philip S. Harness, Director